



ITG News

Keeping First Nations Informed



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Message From The Director

We recently released our Work Plan for Fiscal Year 2005, and posted a copy to our web site at www.irs.gov/tribes. We have shared the Work Plan each year, in order to provide our customers with information on where we will be focusing added attention during the current year. This includes emphasis we will place on certain issues, and added efforts we will undertake in education and examinations.

I am often asked how we determine the areas where we will place added focus. This is a complex process that involves considerable judgment, but much of the information required to make those determinations are based on a combination of customer feedback in our annual survey, changing demographic and economic trends within Indian country, and fairness. This latter factor, fairness, is often misunderstood, but principally involves our need to ensure that all Tribes are treated equally with other types of governmental entities, as well as with each other.

For the current fiscal year, we will be placing added emphasis on the issues associated with tribal gaming. This includes adherence with Title 31 requirements (anti money laundering statutes), tip income reporting compliance, and information reporting in the areas of gaming payouts to patrons and expenditure of gaming proceeds by the Tribe. Our work will include a combination of enhanced outreach, as well as focused Compliance Checks and examinations.

The emphasis placed on gaming issues does not mean that we will ignore other issues and needs. We recognize that many Tribes do not have gaming, and that those who do have gaming also have numerous other tribal enterprises and tax issues. We will continue to address those issues and needs.

As always, I am available to discuss any concerns you may have that cannot be resolved with my local staff. I can be reached at 202-283-9800.



IN THIS ISSUE

Message from the Director	1
Tribal Consultation Policy Update	2
Customer Satisfaction Survey Results	2
Earned Income Tax Credit Initiative for Native Communities	3
Casino Technology and AML	4
Abusive Schemes	4
Tax Credits, Depreciation, and Leasing	5
Casino's and Identification	6
Tax Calendar	7/8

Christie Jacobs



IRS Tribal Consultation Policy Update

In April 2003 we embarked upon a journey to develop an IRS Tribal Consultation Policy in conformance with the requirements of Executive Order 13175. We held 12 regional listening meetings, utilized a joint IRS Tribal drafting committee, and recently solicited feedback from tribal leaders on a draft policy that was developed through these efforts.

We are now in the final stages, and expect to have a policy published in the Federal Register in the near future. While we recognize that the final policy cannot satisfy everyone's interests, we are confident that the process we employed have maximized the opportunity for input, and will provide Tribes the communication mechanisms to be able to raise issues of interest to them at any time.

We wish to thank everyone who participated in the listening meetings, provided suggestions and feedback, and helped to create the draft policy. This effort has truly been an example of the effective exercise of government-to-government relations.

Customer Satisfaction Survey Results

The office of Indian Tribal Governments recently completed its second annual Customer Satisfaction survey. We received responses from 195 Tribes, an increase of 43% from the 2003 survey. Our appreciation to everyone who took time to provide us with valuable feedback on our operations. A report on the results of the survey is posted to our Internet site at www.irs.gov/tribes.

In general, overall satisfaction rose from 68% to 70%, while dissatisfaction dropped from 10% to 3%. While these results indicate improvements have been made, the survey also showed several areas where we need to place added efforts.

One of those areas involves the clarity of our forms and publications. We have already started work to improve Publication 4268, our on-line Employment Tax Desk Guide for Tribal Governments. We are also involved in a redesign of Form 941, the Employer's Quarterly Federal Tax Return, in the hope that we can streamline the form and improve its design. Since that form involves all employers, and the Social Security Administration, the revision process will be lengthy and a new form may not be implemented for some time.

Another area for improvement is our need to ensure fairness in addressing issues with Tribes, in other words, to take actions that reassure Tribes that we are addressing similar issues with ALL Tribes at approximately the same time. While that has been our objective, we will be redoubling our efforts to ensure equity exists.

Although the Customer Satisfaction Survey is done on an annual basis, we welcome your feedback at anytime. Comments and/or suggestions can be submitted to us at tege.ask.itg@irs.gov.

TRIBAL LEADERS

Don't leave Federal dollars on the table

Help working Native families claim the Earned Income Tax Credit (EITC)!

Every year, millions of EITC dollars go unclaimed in Native communities. Families may qualify for refunds from \$390 to \$4,300 in the 2004 tax year, depending on their amount of earned income and number of qualifying children. You can help members of your community claim the EITC refund through their income tax returns.

Launch an EITC Outreach Campaign

Download free resources at www.eitc.info/native to help get the word out to eligible families who are not currently claiming the EITC. You can organize a local coalition to:

- Run public service announcements and articles in local newspapers
- Include an EITC notice in employees' paychecks and W-2 statements
- Distribute flyers through housing and other service providers

Publicize Free Tax Preparation Sites

Help consumers find free tax preparation sites to maximize their refund value. Obtain Volunteer Income Tax Assistance (VITA) locations near your community by calling 1-800-829-1040. Or e-mail the county and state of desired locations to donna.lancaster@irs.gov. Please contact sites directly to confirm operation hours and assistor availability.

Host EITC Workshops

Educate consumers about the EITC by recruiting financial education providers in your community to conduct workshops using a new workbook called *Building Native Communities: A Guide to Claiming the EITC* produced by First Nations Development Institute and the Annie E. Casey Foundation. For free copies, contact First Nations at 540-371-5615 or info@firstnations.org or visit www.firstnations.org



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Casino Technology Advances Must Meet Anti-Money Laundering Statute Requirements

Technological advances continue in the gaming industry – new types of electronic games, improved player tracking systems, automated payout and reporting systems, and improved security and surveillance systems. All of these advances can improve operations. However, it is important to ensure that these advances do not bring risk to the casino operation, specifically that the changes they entail do not result in lapses in adherence to information reporting requirements and the anti-money laundering statutes under Title 31 of the U.S. Code.

One of the advances that is gaining momentum within tribal casinos is the installation of slot machines that issue “paper payouts”. Instead of cash or tokens being generated from the slots, a coded piece of paper denoting the amount of the win is issued by the machine. In some cases the patron can insert the ticket into a similar machine and credits totaling the amount of the ticket will register, enabling the player to continue gaming. The patron may also “cash” the ticket. In the past, a cash payout has normally been handled at the cage. However, we have observed that several casinos are installing machines that hold a considerable amount of cash, and that have the capability of cashing out the ticket.

The casino may have control in programming the amount that the machine can pay out, but there is often no ability to record the identification of the person conducting the transaction. As a result, the casino may be at risk of violating requirements of Title 31, the Bank Secrecy Act if there is no way to keep track of how much money an individual patron may secure from these machines in a gaming day. The transactions that would normally be shown on the Multiple Transaction Log maintained at the cage would not be recorded. If a patron had won multiple slot jackpots in which a Form W-2G was not required, then cashed out credits that had accumulated, no aggregation would be done, and it is likely that the requirement to prepare a CTR-C could go undetected if the total wins in a gaming day were over \$10,000. Several casinos have addressed this area by ensuring that the machines have a pre-determined limit on the amount that can be independently transacted by the customer. That additional step can help ensure that Title 31 requirements can be met if the limit is properly set. A common limit appears to be \$3000. Any payout in excess of that amount requires the involvement of a floor employee who can then secure the information required for Title 31 purposes.

Casinos have the responsibility of making sure that Title 31 rules and regulations are met. Automated cash-out machines that are not capable of controlling large transactions by an individual may jeopardize the effectiveness of the casino's Title 31 program, and may place the casino at risk in the event of an examination. When installing new technology such as this, the casino needs to ensure that the equipment has the capability of fully addressing all of the processes that were performed by cage and floor personnel, and in this case, has safeguards that ensure anti-money laundering statute requirements are met.

Abusive Schemes

We continue to work with Tribes in identifying and addressing schemes that are surfacing in Indian country. If someone approaches you with a deal that seems “too good to be true”, or if you find evidence of abuses of tribal finances by former employees or consultants, please contact us via e-mail at tege.schemes.itg@irs.gov. We want to partner with Tribes to prevent abuses, and protect tribal resources and the interests of tribal members.



Indian Employment Tax Credit Extended

The Working Families Tax Relief Act of 2004 extends the Indian employment credit incentive for 1 year.

In general, this is a credit against income tax liability is allowed to employers for up to \$20,000 of qualified wages and employee health insurance costs paid or incurred by the employer with respect to certain employees performing services within an Indian reservation.

The credit is equal to 20% of the excess of eligible employee qualified wages and health insurance costs during the current year over the amount of such wages and cost incurred by the employer during 1993.

No deduction is allowed for the portion of the wages equal to the amount of the credit. The wage credit is

Accelerated Depreciation on Indian Reservations Extended

The Working Families Tax Relief Act of 2004 extends eligibility for the special depreciation periods to property placed in service before January 1, 2006.

With respect to certain property used in connection with the conduct of a trade or business within an Indian reservation, cost recovery periods under I.R.C. 168(j) are shorter than under the usual general depreciation system.

Qualified Indian reservation property eligible for accelerated depreciation includes property which is (1) used by the taxpayer predominately in the active conduct of a trade or business within a Indian reservation, (2) not used or located outside the reservation on a regular basis, and (3) not acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer.

Property is not qualified Indian reservation property if it is placed in service for purposes of conducting gaming activities.

Certain qualified infrastructure property may be eligible for the accelerated depreciation even if located

Leasing Arrangements with Tax-Exempt Entities Now Include Tribal Governments

The American Jobs Creation Act of 2004, effective October 3, 2004 for Indian tribal governments, expands the definition of a tax-exempt entity to include certain Indian tribal governments. This relates to the recovery period of certain property leased to a tax-exempt entity.

It also alters the definition of a lease term for all property leased to a tax-exempt entity, expands the short-term lease exception for qualified technological equipment, and establishes rules to limit deductions associated with leases to tax exempt entities if the leases do not satisfy specified criteria.

It also modifies the recovery period for certain intangibles leased to a tax-exempt entity to be no less than 125% of the lease term. The modification does not apply to certain short-term leases.

The Act provides additional requirements that must be satisfied to avoid the deduction limitations for certain leases of property to tax-exempt parties. This requirement provides that the tax-exempt lessee may not have an option to purchase the leased property for any stated purchase price other than the FMV of the property (as determined at the time of exercise of the option). This requirement does not apply to property with a class life of 7 years or less, or any fixed wing aircraft or vessels (i.e., ships).



Casino Employees-What Type of ID Can You Accept?

Are you as an employee, familiar with the minimum internal controls standards (MICS) at the casino where you work? If not, you should become familiar with them since your employer may require you to verify identification of customers when completing Form W-2G, Certain Gambling Winnings. The casino may be penalized if the customer provides incorrect information.

A casino has a reporting requirement for Title 31 Money and Finance, Part 103, Bank Secrecy Act. The Code of Federal Regulations 31.103.28 states in part, "Before concluding any transaction with respect to which a report is required...a financial institution shall verify and record the name and address of the individualVerification of the identity...shall be made by the examination of a document...that is normally acceptable within the banking community as a means of identification when cashing checks for non-depositors." You must terminate a transaction under Title 31 if a customer refuses to present the proper identification.

What forms of valid identification can casino floor personnel rely upon? Valid identification is considered to be any form of government issued identification. Examples of official government issued identification can include but are not limited to:

Current driver's license

State issued identification card

Tribal issued identification card

Passport, or Alien registration card

Military identification

Other forms of identification may include a voter's registration card, or a social security card.

Is an expired driver's license considered valid identification? In most states an expired license is not a valid form of identification. However, if a customer can present an alternate form of identification along with an expired license, then it would be acceptable as a second form of identification.

What if the customer has no identification of any kind? Items that can be used as additional identification could be employment identification, a pay stub that contains a name, address, and social security number, a photo credit card, or a player's club card (if update periodically.)

A Form W-9, Request for Taxpayer Identification Number and Certification, may be used by the casino. The customer completes the Form W-9, testifying that the name and SSN they have provided is correct.

What if someone refuses to produce identification? If the customer provides their name and address but refuses to provide a social security number you should inform them their winnings will be subject to applicable backup withholding .

Informing your customer of the requirements of the law will increase compliance.

Federal Tax Calendar for First Quarter 2005

January 2005

SUN	MON	TUE	WED	THU	FRI	SAT
						1
2	3 * Make a deposit 12/25-12/28 Stop advance pay- ments of EITC for any employee not filing a new Form W-5	4	5 * Make a deposit for 12/29-12/31	6	7 * Make a deposit for 1/1-1/4	8
9	10 Employees report December tip income to employers if \$20 or more	11	12 * Make a deposit for 1/5-1/7	13	14 * Make a deposit for 1/8-1/11	15
16	17	18 ** Make a deposit for December if under the monthly deposit rule	19	20	21 * Make a deposit for 1/12-1/14	22
23	24 * Make a deposit for 1/15-1/18	25	26 * Make a deposit for 1/19-1/21	27	28 * Make a deposit for 1/22-1/25	29
30	31) Give employees cop- ies of their Forms W- 2 for 2004, and give annual information statements (Forms	1099, 1098, 5498, and W-2G) to all recipients of reportable payments				

February 2005

SUN	MON	TUE	WED	THU	FRI	SAT
		1	2 * Make a deposit for 1/26-1/28	3	4 * Make a deposit for 1/29-2/1	5
6	7	8	9 * Make a deposit for 2/2-2/4	10 Employees report January tip income to employers if \$20 or more	11 * Make a deposit for 2/5-2/8	12
13	14	15 ** Make a deposit for January if under the monthly deposit rule	16 * Make a deposit for 2/9-2/11	17	18 * Make a deposit for 2/12-2/15	19
20	21	22	23	24 * Make a deposit for 2/16-2/18	25 * Make a deposit for 2/19-2/22	26
27	28					

* = Make a Payroll Deposit if you are under the semi-weekly deposit rule.

** = Make a Monthly Deposit if you qualify under that rule.

NOTE: Deposits made through EFTPS are due one day prior to the dates listed.

March 2005

SUN	MON	TUE	WED	THU	FRI	SAT
		1	2 * Make a deposit for 2/23-2/25	3	4 * Make a deposit for 2/26-3/1	5
6	7	8	9 * Make a deposit for 3/2-3/4	10 Employees report February tip income to employers if \$20 or more	11 * Make a deposit for 3/5-3/8	12
13	14	15 ** Make a deposit for February if under the monthly deposit rule	16 * Make a deposit for 3/9-3/11	17	18 * Make a deposit for 3/12-3/15	19
20	21	22	23 * Make a deposit for 3/16-3/18	24	25 * Make a deposit for 3/19-3/22	26
27	28	29	30 * Make a deposit for 3/23-3/25	31		

*= Make a Payroll Deposit if you are under the semi-weekly deposit rule.

**= Make a Monthly Deposit if you qualify under that rule.

NOTE: Deposits made through EFTPS are due one day prior to the dates listed.

Return Filing Dates

January 31st

- > File Form 941 for the 4th quarter of 2004. If all deposits paid on time and in full, file by February 10th.
- > File Form 940 for 2004 if liable for Federal Unemployment Tax (not participating or current with state unemployment tax). If all deposits paid on time and in full, file by February 10th.
- > File Form 730 and pay the tax on applicable wagers accepted during December.
- > File Form 945 for 2004. If all deposits paid on time and in full, file by February 10th.
- > File Form 943 for 2004 (agricultural entities). If all deposits paid on time and in full, file by February 10th.

February 28th

- > File information returns for all payments reported to recipients on Forms 1099, 1098, 5498, and W-2G, using Form 1096 as a transmittal. If filing these forms electronically, file by March 31st.
- > File Form W-3, along with copy A of Forms W-2 you issued for 2004. File by March 31st if filing electronically.
- > File Form 730 and pay the tax on applicable wagers accepted during January.
- > File Form 8027 if you are a large food and beverage establishment. File by March 31st if filing electronically.

March 31st

- > File Form 730 and pay the tax on applicable wagers accepted during February.